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SENATE BILL 685

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Allen V. Hurt

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING A SECTION OF THE LIQUOR CONTROL ACT EXPANDING THE GROUNDS FOR A LOCAL GOVERNING BODY TO DISAPPROVE THE TRANSFER OF A LICENSE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-6B-4 NMSA 1978 (being Laws 1981, Chapter 39, Section 40) is amended to read:

"60-6B-4. ISSUANCE OR TRANSFER OF LICENSE--APPROVAL OF APPROPRIATE GOVERNING BODY. --

A. Prior to the approval of the issuance of a new license, and prior to the approval of any transfer permitted by Section [~~39 or 113 of the Liquor Control Act~~] 60-6B-3 or 60-6B-12 NMSA 1978, the director shall notify the governing body of his preliminary approval of the issuance or transfer of the license. Notice to the governing body shall be by

underscored material = new
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1 certified mail.

2 B. A governing body [~~which~~] that has received a
3 notice of preliminary approval of the issuance or transfer of a
4 license from the department may approve or disapprove the
5 issuance or transfer of the license in accordance with the
6 provisions of this section.

7 C. Within forty-five days after receipt of a notice
8 of preliminary approval from the department, the governing body
9 shall hold a public hearing on the question of whether the
10 department should approve the proposed issuance or transfer.

11 D. Notice of the public hearing required by
12 Subsection C of this section shall be given by the governing
13 body by:

14 (1) publishing a notice of the date, time and
15 place of the hearing at least once a week for two consecutive
16 weeks in a newspaper of general circulation within the
17 territorial limits of the governing body. The notice shall set
18 forth:

19 (a) the ~~name~~ and address of the
20 licensee;

21 (b) the action proposed to be taken by
22 the department;

23 (c) the location of the licensee's
24 premises; and

25 (d) such other information as may be

underscored material = new
[bracketed material] = delete

1 required by the department; and

2 (2) sending a notice by certified mail to the
3 applicant of the date, time and place of the public hearing.

4 E. The governing body may designate a hearing
5 officer to conduct the hearing. A record shall be made of the
6 hearing.

7 F. The governing body may disapprove the issuance
8 or transfer of the license if:

9 (1) the proposed location is within an area
10 where the sale of alcoholic beverages is prohibited by the laws
11 of New Mexico;

12 (2) the issuance or transfer would be in
13 violation of a zoning or other ordinance of the governing body;
14 [~~or~~]

15 (3) the issuance or transfer would be
16 detrimental to the public health, safety or morals of the
17 residents of the local option district; or

18 (4) the negative impact of the transfer on the
19 public health and safety of the residents of the local option
20 district would be greater than at the prior location of the
21 license.

22 G. Within thirty days after the public hearing, the
23 governing body shall notify the department as to whether the
24 governing body has approved or disapproved the proposed
25 issuance or transfer of the license. If the governing body

1 fails to either approve or disapprove the issuance or transfer
2 of the license within thirty days after the public hearing, the
3 director may give final approval to the issuance or transfer of
4 the license.

5 H. If the governing body disapproves the issuance
6 or transfer of the license, it shall notify the department
7 within the time required by Subsection G of this section
8 setting forth the reasons for the disapproval. A copy of the
9 minutes of the public hearing shall be submitted to the
10 department by the governing body with the notice of
11 disapproval. If the governing body disapproves of the issuance
12 or transfer of the license, the director shall disapprove the
13 issuance or transfer of the license.

14 I. If the governing body approves the issuance or
15 transfer of the license, it shall notify the department within
16 the time required by Subsection G of this section of its
17 approval. If the governing body approves of the issuance or
18 transfer of the license, the director shall approve the
19 issuance or transfer of the license."